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## United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

AMBER COTTLE, STAFF DIRECTOR  
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May 16, 2013

Mr. J. Russell George  
Inspector General for Tax Administration  
City Center Building  
1401 H Street, NW  
Suite 469  
Washington, DC 20005

Dear Inspector General George:

As members of the Senate Finance Committee, we are charged with oversight of the Internal Revenue Service (IRS). We are writing to request that the Treasury Inspector General for Tax Administration (TIGTA) investigate the IRS's improper, and likely illegal, disclosure of nine organizations' applications for tax-exempt status.

Along with the American public, we were surprised by the IRS's sudden apology for improperly targeting certain conservative organizations that applied for tax-exempt status under section 501(c)(4) of the Internal Revenue Code. These allegations have existed for some time. In addition to this recent revelation, we are also troubled by the possibility that IRS improperly disclosed confidential information about certain conservative groups during 2012, including application materials and donor names. Together, the IRS's recent actions have at least the appearance of injecting partisan politics into what is supposed to be an impartial process and causes us, and the American public, to question the integrity of the IRS administration and their ability to impartially uphold the nation's tax laws.

In November 2012, the journalist group ProPublica made a Freedom of Information Act (FOIA) request to the IRS for the 501(c)(4) applications of 67 social welfare organizations operating as nonprofits.<sup>1</sup> Just 13 days later, the IRS responded by producing documents submitted by 31 of those organizations – including applications from nine organizations that were still under consideration by the IRS. Subsequently, ProPublica disclosed six of those applications in

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<sup>1</sup> <http://www.propublica.org/article/irs-office-that-targeted-tea-party-also-disclosed-confidential-docs>.

redacted form on its website and wrote articles analyzing the information contained in the applications.<sup>2</sup> These materials remain publicly available on ProPublica's website.<sup>3</sup>

Section 6104 of the Internal Revenue Code authorizes the IRS to disclose the application and related materials of organizations that have been granted tax-exempt status under Section 501 of the Internal Revenue Code.<sup>4</sup> Notably, this section only authorizes the IRS to disclose applications that the IRS has already approved. We are aware of no legal authority that would permit the IRS to disclose applications for tax-exempt status that are still under review by the IRS. In fact, section 6103 prohibits such disclosure.<sup>5</sup> Thus, we believe that disclosure of applications that are still pending is a violation of the Internal Revenue Code and other related provisions, which could result in civil and criminal penalties.<sup>6</sup>

This Committee has raised similar issues recently about the IRS's disclosure of information submitted by conservative nonprofit organizations. On May 8, 2012, Ranking Member Hatch sent a letter to then-Commissioner Shulman requesting that the IRS investigate whether the IRS publicly released confidential donor information about the National Organization for Marriage (NOM), a nonprofit tax-exempt 501(c)(4) organization. As Senator Hatch noted in that letter, if the IRS disclosed this information, it would not only violate the law but also call the IRS's integrity as a non-partisan agency into question. To date, the IRS administration has not provided any response to Senator Hatch or the Finance Committee on this issue. We enclose a copy of Ranking Member Hatch's letter for your reference.

In view of the recent disclosure to ProPublica and the unresolved question of whether the IRS also disclosed NOM donor information, we respectfully request that your office investigate the following issues:

1. Which employees at the IRS were responsible for improperly disclosing documents to ProPublica?
2. How did the IRS respond to the improper disclosure of applicant documents? Were any of the IRS employees disciplined? Have any civil or criminal actions been taken against the IRS employees who were responsible for releasing these documents?
3. What steps has the IRS taken to ensure that it does not improperly disclose similar confidential documents in the future?
4. What is the IRS's typical response time for FOIA requests? Did the IRS follow its usual FOIA procedures when responding to ProPublica's request?

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<sup>2</sup> The six applications that were disclosed were submitted by: Crossroads GPS, Americans for Responsible Leadership, Freedom Path, Rightchange.com II, America Is Not Stupid, and A Better America Now.

<sup>3</sup> See <http://www.propublica.org/article/what-karl-roves-dark-money-nonprofit-told-the-irs> and <http://www.propublica.org/article/controversial-dark-money-group-among-five-that-told-irs-they-would-stay-out>.

<sup>4</sup> 26 U.S.C. § 6104.

<sup>5</sup> 26 U.S.C. § 6103.

<sup>6</sup> See 18 U.S.C. § 1905; 26 U.S.C. §§ 7213, 7213A; and 5 U.S.C. § 552a.

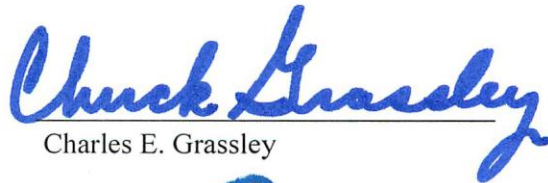
5. Has the IRS undertaken an investigation to determine if the IRS was responsible for disclosure of NOM donor information?

We request that you initiate this work immediately and provide us with ongoing updates as to when we can expect a final report on your findings. Thank you for your attention to this matter and we look forward to reviewing your final work product. Should your staff have any questions, please do not hesitate to have them contact Kim Brandt of the Finance Committee minority staff at 202/224-4515.

Sincerely,



Orrin G. Hatch



Charles E. Grassley



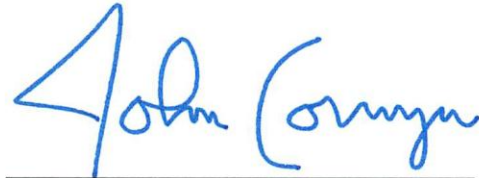
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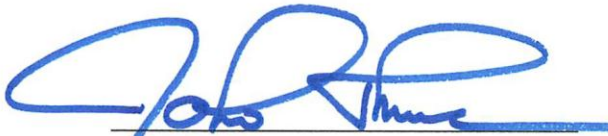
Pat Roberts



Michael B. Enzi



John Cornyn



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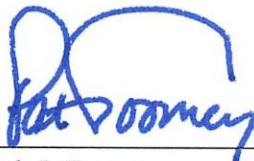
Richard Burr



Johnny Isakson



Rob Portman



Patrick J. Toomey